

complaint

Mrs B complains that Lloyds Bank PLC sold an account it says she is responsible for to a debt collector. She says the account isn't hers.

Mrs B is represented by her husband, Mr B.

background

Lloyds' records show that in 2005 Mrs B opened a joint account with Mr B. At the time she wasn't married to Mr B so she opened the account in her maiden name. After she married Mr B in 2007, she switched the name on the account to her married name.

It appears that the account was used for household expenses, and that both Mr and Mrs B paid money into it. It also appears that each Mr and Mrs B had a debit card for the account that they used. Mrs B has asked the bank to provide evidence to show that she was an account holder. Lloyds says it no longer holds a copy of the relevant bank mandate given the passage of time, but it has provided us with copies of a statement from 2006 that shows that Mrs B (in her maiden name) was a joint account holder.

Our adjudicator didn't consider the complaint should be upheld. He said that even though Lloyds couldn't provide a copy of the bank mandate, he considered, on the balance of probabilities, that Mrs B was responsible for the account. He was satisfied that the account was in Mr and Mrs B's joint names, so they were jointly liable for any debt incurred on the account until Mr B's name was removed from it in September 2010 (after he was declared bankrupt). After this, Mrs B became solely responsible for the account. In the circumstances, he said Lloyds was entitled to issue Mrs B with a formal demand for the money owed on the account, and to sell the debt on to a debt collector. Mr B disagreed with this and asked for the case to be reviewed.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete or contradictory, as some of it is here, I reach my decision on the balance of probabilities – in other words, what I consider is more likely than not to have happened in the light of the available evidence and the wider circumstances.

I've reached broadly the same conclusions as the adjudicator, and for much the same reasons. However, I will make the following observations.

Mr B says Lloyds hasn't been able to provide a signed copy of the bank mandate to prove that Mrs B was a joint account holder. He says that until it does, Mrs B is unwilling to pay the debt on the account.

I understand Mr B's stance on this complaint. But given the available evidence, I'm satisfied, on balance, that Mrs B was a joint account holder, so I find she is responsible for the account. The account was opened in 2005 (around 9 years ago) so I'm not surprised the bank doesn't have a copy of the mandate. Banks aren't required to retain records indefinitely and will generally retain records for only six years. In the circumstances, I consider the bank was entitled to take steps to seek repayment of the debt owed on the account, and to sell the debt on to a debt collector. So I don't consider it would be fair for me to require Lloyds to recall the debt from the debt collector and write-off the debt as Mr B has suggested.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 16 February 2015.

Laura Forster
ombudsman